

**City of Duluth
Planning Division**

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

An Equal Opportunity Employer

MEMORANDUM

DATE: March 4, 2014
TO: Planning Commissioners
FROM: Steven Robertson, Senior Planner
SUBJECT: Proposed Text Amendments to the UDC Relating to Subdivision of Land

The Planning Division is proposing one last change for the Unified Development Chapter. Staff have referenced changes to the subdivision process at the December, January, and February Planning Commission meetings. Attached to this memo is a draft of the proposed changes.

Planning Staff intend on getting comments from staff at St. Louis County later this month, and after one last round of staff reviews, presenting final language at the April 8th Planning Commission meeting.

50-37.5 Subdivision Plat Approval or Amendment

A. Applicability

This section applies to all applications to subdivide unplatted land, or to replat previously platted land, or to adjust the boundary lines between existing property lines. This section is intended to comply with all applicable provisions of state law, including without limitation Laws of Minnesota 1933, Chapter 93 and Laws of Minnesota 1974, Chapter 236 and any provisions of MSA 462.358 and Chapter 505 and 508, as amended, still applicable to the city, and shall be interpreted to comply with those provisions wherever possible. All applications to subdivide land shall follow the standard subdivision process in subsections G and H below unless provided for in subsections C, D, E, or I below.

B Property Transfers

Pursuant to Minnesota Statute 272.162, no land shall be transferred or divided in official records until the transfer has been approved by the land use supervisor to determine if the transfer is appropriate and conforms with existing city ordinances and regulations if the platted lot or parcel conveyed is:

1. Less than a whole parcel of land as charged in the tax lists; and
2. Is part of or constitutes a subdivision as defined in Minnesota Statute 462.352, subdivision 12.

The land use supervisor shall certify that the transfer has complied with subsection C through I below, as applicable.

C Boundary Line Adjustment

A boundary line adjustment provides for the alteration of existing property lines, where no additional lots and parcels are created.

1. The land use supervisor shall approve the application if it is determined that:
 - (a) The application will not result in the creation of any new lots or parcels;
 - (b) If each of the existing lots and parcels, and the structures on those lots or parcels, complies with the requirements of this Chapter, then after the adjustment each of the resulting lots or parcels, and the structures on those lots or parcels, will still comply with the requirements of this Chapter;
 - (c) If one or more of the existing lots or parcels, or a structure on one or more of those lots or parcels, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.
2. After the application is approved, the applicant must prepare a survey or similar recordable exhibit reflecting the relocated boundaries, obtain the land use supervisor's signature on that survey or exhibit, and record the survey or exhibit in the appropriate office at St. Louis County. If the survey or exhibit is not recorded within 180 days after the boundary line adjustment is approved, that approval will lapse and the survey or exhibit may not be recorded.

6-2

D Minor Subdivision Plat

A minor subdivision allows for the subdivision of a maximum of four lots.

1. The Planning Commission shall approve the application if it is determined that:
 - (a) The lot or lots to be subdivided are previously platted lots and have frontage on an improved public street;
 - (b) Each lot meets the minimum zoning requirements of the district that it is in;
 - (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
 - (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.
2. After the application is approved, the applicant must prepare a survey or similar recordable exhibit reflecting the relocated boundaries, obtain the land use supervisor's signature on that survey or exhibit, and record the survey or exhibit in the county register of deeds. If the survey or exhibit is not recorded within 180 days after the minor subdivision is approved, that approval will lapse and the survey may not be recorded.

E Combination of Parcels

Any person with a legal or equitable interest in two or more contiguous parcels of land may combine those parcels into a single lot by plat or registered land survey by complying with all the applicable subdivision procedures.

F Amending an Approved Subdivision Plat

An application to adopt or amend a subdivision preliminary plat or a subdivision final plat shall be filed pursuant to Section 50-37.1.G. An application to amend the street names of a subdivision final plat shall be filed pursuant to Section 50-37.1.H.

G Subdivision Plat, Preliminary Procedure

1. Concept Plan

No application for a preliminary plat shall be accepted until the applicant has submitted a concept plan for the proposed subdivision. Concept plans shall reflect the general location of proposed lots, tracts, and streets, shall reflect all areas of the property where development is restricted pursuant to the NR-O overlay district in Section 50-18.1. The intent of the concept plan is to review general concepts for development of the site before applicants have incurred costs for engineering, soil, or storm water studies. The concept plans shall be reviewed in an informal discussion with planning staff.

2. Preliminary Storm Water Plan

A preliminary storm water plan shall be submitted and approved by the city engineer prior to submittal of the application for a preliminary plat.

3. Preliminary Plat Review and Referral

The applicant shall submit a preliminary plat and all required and proposed improvements to the city. The preliminary plat, together with the surveyor's mathematical calculations, shall be reviewed by the city engineer for accuracy of the surveys, the adequacy of the monuments, the proposed street improvements

M
1
G

and other features of concern. The preliminary plat may be submitted to the county engineer if the plat involves features of concern to the county highway department, and to such other divisions of government or public utility corporations as the city deems necessary or desirable. The city engineer shall check the plat boundary survey with the county surveyor to determine the coinciding of the plat boundary lines with the boundary lines of adjoining plats, tracts or other subdivision lines or markers.

4. Preliminary Plat Decision

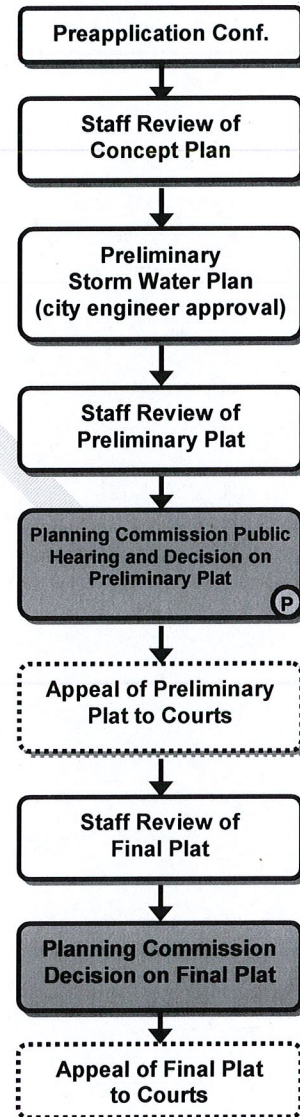
The planning commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision to approve, adopt with modifications or deny the application based on the criteria in subsection 50-37.5.J.3 below.

5. Preliminary Plat Criteria

The planning commission shall approve the application, or approve it with modifications if it determines that the application:

- (a) Is consistent with the Comprehensive Land Use Plan;
- (b) Is consistent with all requirements of MSA 462.358 and Chapter 505;
- (c) Is consistent with all applicable provisions of this Chapter;
- (d) Is consistent with any approved district plan covering all or part of the area of the preliminary plat;
- (e) Is located in an area where adequate police, fire and emergency facilities are available to serve the projected population of the subdivision within the city's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;
- (f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

Subdivision Plat Approval or Amendment



P Indicates Public Hearing Required

H Subdivision Plat, Final Procedure

1. Final Plat Review and Decision

After the approval of the preliminary plat, the applicant shall submit one or more final plats covering part or all of the land covered by the preliminary plat,

G-4

together with evidence that the requirements of the approved plat have been met for the portion(s) of the land covered by the final plat. The planning commission shall approve, adopt with modifications or deny the final plat based on the criteria in subsection 2 below. The planning commission may refer the final plat to any city, county or other public or quasi-public agency deemed necessary to confirm whether the criteria in subsection 2 below have been met.

2. Final Plat Criteria

The planning commission shall approve the application, or approve it with modifications, if the application meets the following criteria:

- (a) Is consistent with all provisions of MSA 462.358 and Chapter 505;
- (b) Is consistent with the terms and provisions of the preliminary plat approval for the property;
- (c) Demonstrates that all required improvements have been installed or that (a) the applicant has signed a development agreement committing to construct those improvements within 1 year after approval of the final plat and (b) adequate security for the construction of the required improvements has been posted with the city pursuant to Section 50-37.1.P.

3. Final Plat Recording

After the final plat is approved, it must be recorded in the office of the county recorder as provided in MSA 505.04. A final plat that is not recorded within 180 days after approval will lapse and may not be recorded. After the final plat has been recorded, lots may be sold and building permits for structures on the platted lots may be issued; any sales of lots shown on the final plat before recording of the final plat shall be a violation of this Chapter.

I Registered Land Survey

Registered land surveys shall be approved in the manner required for the approval of minor subdivision plats in subsection D above if the registered land survey has four or less parcels or tracts of land. Registered Land Surveys that have five or more parcels or tracts of land must follow the process listed below.

1. Concept Plan

No registered land survey shall be accepted until the applicant has submitted a concept plan for the proposed subdivision. Concept plans shall reflect the general location of proposed parcels and tracts, and shall reflect all areas of the property where development is restricted pursuant to the NR-O overlay district in Section 50-18.1. The intent of the concept plan is to review general concepts for development of the site before applicants have incurred costs for engineering, soil, or storm water studies. The concept plans shall be reviewed in an informal discussion with planning staff.

2. Storm Water Plan and Wetland Delineation

A storm water plan shall be submitted and approved by the city engineer, and all wetlands must be delineated, prior to submittal of the application for a registered land survey.

3. Review and Referral

The registered land survey, together with the surveyor's mathematical calculations, shall be reviewed by the city engineer for accuracy of the surveys, the adequacy of the monuments, and other features of concern. The registered land survey may be submitted to the county engineer if the registered land

5-6

survey involves features of concern to the county highway department, and to such other divisions of government or public utility corporations as the city deems necessary or desirable. The city engineer shall check the registered land survey with the county surveyor to determine the coinciding of the registered land survey boundary lines with the boundary lines of adjoining plats, tracts or other subdivision lines or markers.

4. Registered Land Survey Decision

The planning commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, and shall make a decision to approve, adopt with modifications or deny the application based on the criteria in subsection 50-37.5.I.5 below.

5. Registered Land Survey Criteria

The planning commission shall approve the application, or approve it with modifications if it determines that the application:

- (a) Is consistent with the Comprehensive Land Use Plan;
- (b) Is consistent with all requirements of MSA 462.358 and Chapter 508;
- (c) Is consistent with all applicable provisions of this Chapter;
- (d) Is consistent with any approved district plan covering all or part of the area of the registered land survey;
- (e) Is located in an area where adequate police, fire and emergency facilities are available to serve the projected population of the subdivision within the city's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;
- (f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

6. Registered Land Survey Recording

After the registered land survey is approved, it must be recorded in the office of the county recorder as provided in MSA 508. A registered land survey that is not recorded within 180 days after approval will lapse and may not be recorded. After the registered land survey has been recorded, parcels and tracts may be sold and building permits for structures on the parcels and tracts may be issued; any sales of parcels and tracts shown on the registered land survey before recording of the registered land survey shall be a violation of this Chapter.

6-6